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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,654	02/01/2006	Georges Moineau	284854US0PCT	7532
22850	7590	03/26/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER COONEY, JOHN M	
			ART UNIT 1796	PAPER NUMBER
			NOTIFICATION DATE 03/26/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/566,654	Applicant(s) MOINEAU ET AL.	
	Examiner John Cooney	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20 and 21 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20060201</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maruyama et al.(4,264,743), alone, or in view of Peterson et al.(4,386,166).

Maruyama et al. discloses preparations of flexible polyurethane foams prepared by mixing a hydrophobic polyol as claimed, an isocyanate, and blowing agent including water and passing the foam to a location to allow for it to foam, crosslink, and cure to products having densities as claimed and having good permeability and waterproofing properties under compression which are seen to meet the ranges of compression property values defined by applicants' claims (see column 4 line 17 – column 10 line 50, Examples, and claims).

Maruyama et al. differs from applicants' claims in that it does not specifically require NCO Index values as claimed by applicants' claims. However, the reference specifically identifies preferred values for approaching the Index values of applicants' claims and identifies benefits and weaknesses, respectively, associated with operating within and beyond the preferred ranges of the instant claims (column 8 lines 24-32). Accordingly, it would have been obvious for one having ordinary skill in the art to have

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operated at ratios of Index values below the preferred ratios of Maruyama et al.'s disclosure if one were not interested in the good contact angle with water afforded to products having fuller reaction of available hydroxyl groups for the purpose of obtaining acceptable products having residual hydroxyl functionality in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results. Further, it has long been held that where the general conditions of the claims are disclosed in the prior art, discovering the optimal or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233; *In re Reese* 129 USPQ 402 . Further, a prima facie case of obviousness has been held to exist where the proportions of a reference are close enough to those of the claims to lead to an expectation of the same properties. *Titanium Metals v Banner* 227 USPQ 773. **(see also MPEP 2144.05 I)**. Similarly, it has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Additionally, it should be noted that all disclosures of the prior art, including unpreferred or auxiliary embodiments, must be considered in determining obviousness. *In re Mills*, 176 USPQ; *In re Lamberti*, 192 USPQ 278; *In re Boe*, 148 USPQ 507.

Although Maruyama et al. discloses manufacture of films in its disclosure, it differs from applicants' claims in that it does not exemplify the casting and laminating the mixtures of its disclosure to films on conveyor belts passing through ovens. However, Peterson et al. discloses the making of urethane foam composite articles through the casting and laminating of mixtures to films on conveyor belts passing

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through ovens (see abstract & column 9 line 39-column 10 line 20). Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the composite article forming processes of Peterson et al. in the foam manufacturing processes of Maruyama et al. for the purpose of making acceptable reinforced articles in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Claims 1-18 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita et al.(5,527,834), alone, or in view of Peterson et al.(4,386,166).

Fujita et al. discloses preparations of flexible polyurethane foams prepared by mixing a hydrophobic polyol as claimed, an isocyanate, and blowing agent including water and passing the foam to a location to allow for it to foam, crosslink, and cure to products having densities as claimed and having good permeability and waterproofing properties under compression which are seen to meet the ranges of compression property values defined by applicants' claims (see column 2 line 22 – column 14 line 44, Examples, and claims).

Fujita et al. differs from applicants' claims in that it does not specifically require NCO Index values as claimed by applicants' claims. However, Index values are well studied feature of urethane synthesis operations impacting properties and residual functionalities for further and/or other reactions beyond the urethane group forming

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reaction arising from contact between NCO and OH groups. Accordingly, it would have been obvious for one having ordinary skill in the art to have operated at any ratio from within the teachings of Fujita et al. for the purpose of forming acceptable products having varied structural properties in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Fujita et al. differs from applicants' claims in that it does not exemplify the casting and laminating the mixtures of its disclosure to films on conveyor belts passing through ovens. However, Peterson et al. discloses the making of urethane foam composite articles through the casting and laminating of mixtures to films on conveyor belts passing through ovens (see abstract & column 9 line 39-column 10 line 20).

Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the composite article forming processes of Peterson et al. in the foam manufacturing processes of Fujita et al. for the purpose of making acceptable reinforced articles in order to arrive at the products and processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Marion (4,581,384) is cited for its disclosure of relevant lamination processes in the art.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Cooney/

Primary Examiner, Art Unit 1796